

MINUTES OF THE CITY COUNCIL
CITY OF AUSTIN, TEXAS
Special Called Council Meeting

March 19, 1979
6:00 P.M.

Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Mayor Pro Tem Goodman, Councilmembers Cooke, Himmelblau, Mullen, Snell, Trevino

Absent: None

Mayor McClellan stated that this was a Called Special Meeting for the purpose of continuing the hearing on Southern Union Gas Company's Service regulations, which had begun on February 15th, continued until March 1st and continued until March 19th. The staff had been instructed to put into ordinance form service rules and regulations which would encompass the following items:

1. All provisions agreed upon by Southern Union Gas Company and ACORN.
2. That a customer's bill of rights be mailed annually to all customers and mailed to new customers with the first bill.
3. That the customer's bill of rights and all turnoff notices (including door-hangers) be in English and Spanish.
4. That no customer turn-offs occur on Friday.
5. That the bill be printed in both English and Spanish.

Mayor McClellan felt that special attention should be given to areas of disagreement between Southern Union and ACORN as noted in the staff report.

Mayor McClellan asked the City Attorney for clarification in regard to printing the utility bill in English and Spanish. Mr. Harris said that he had referred to the Minutes, which reflected that the bill be printed in English and Spanish.

BETH YOST, Chairperson, Southwood Community Organization, which was affiliated with ACORN, said that Southern Union had proposed an averaging plan as a substitute for delayed billing. She felt that the plan had merit and deserved to be tried.

Ms. Yost also felt that the credit counselling proposed by Southern Union would be helpful to people who could not budget properly. However, there was no provision to cover people who had one-time catastrophes, but a Travis County public agency was interested in the problem. She asked the Council's permission to investigate the matter further and come back later.

SCOTT MCCULLOUGH related his experience to the Council regarding the Friday cut-off. He requested that the Council pass the ACORN proposal.

JACK JACKSON, Chairman, Central South Austin Neighborhood Organization and a member of ACORN, commented on Southern Union's memorandum on estimated costs and interest costs were too high, that a 9% interest rate was more accurate than the 12% rate quoted.

Ms. Yost pointed out that the section of ACORN's proposals dealing with hearing procedures had been omitted from the draft ordinance.

Albert De La Rosa of the Legal Department stated that the only points covered in the ordinance were where there was absolute agreement between ACORN and Southern Union. Agreement was not absolute on the point of hearing procedures.

BOB LACZKO, Southern Union Gas Company, recommended that the Council consider allowing the Company to notify its customers annually regarding customer's bill of rights, rather than annually plus with the first bill. After discussion, it was agreed that at the time of turn-on a copy of the customer's rights would be handed to the customer.

Regarding the printing of the utility bill in English and Spanish, Mr. Laczko did not believe that the cost involved would be worth the benefit to be derived. He pointed out that no other utility bill in Austin was bilingual. After further discussion, it was agreed that the explanation of charges would be printed on the back of the bill in Spanish.

Mr. Laczko recommended that the Council include in their revision the appeals procedure which Southern Union Gas Company had recommended, specifically the part dealing with hearing procedures.

STEVE GARDNER, representing ACORN, felt that the appeals provision suggested by ACORN should be used rather than the one proposed by Southern Union. Concerning the informal appeals section, Mr. Gardner said that there was basic agreement except that Southern Union's proposal did not include notification of the right of appealing formally, although the right of appeal was included. ACORN's proposal contained a notification provision. After further discussion, it was agreed that a bilingual written notice would be given to each person after concluding the informal appeal in person and that with telephone appeals the person would be informed that a written notice was available at Southern Union Gas Company. He said they have agreed on everything except before whom the hearing should be held. ACORN suggests the City Manager appoint a hearing officer and Southern Union wants Mr. Laczko to appoint the hearings officer. That, he said, is the point of departure.

Discussion on how to conduct the appeal continued. Mr. Laczko pointed out that there have been 10 appeals since 1974.

CHARLETTA HARREL, East Austin Neighborhood Association, said that the people do not know how to go about making an appeal. She thought they should put in the bill of rights the fact that if a customer does not understand the appeal process he could bring someone with him to the appeal who does. Mr. Laczko said Southern Union tries to keep its records of contact with individuals confidential, and it will infringe on personal rights if ACORN gets into the act. He conjectured it would be all right for an individual to be accompanied by one person, but does not want to see a mob scene at an appeals hearing.

Steve Gardner returned and said a section has been added to 19.2 that provides in the event the hearing officer's decision is favorable to the customer in whole or in part the hearings officer shall direct the company to promptly initiate corrective action within three business days. He said he agrees with Southern Union on this. In Section 19.3 dealing with continuity during appeal, the ACORN position is that during the pending of any appeal, service that has not been terminated shall not be terminated. Where ACORN and Southern Union disagree is if the service was terminated prior to the appeal. ACORN's position is that the service should be restored during pending appeal upon payment of the current connection. The fee would be refunded in the event the hearings officer decision was in favor of the customer in whole or in part. Mr. Laczko said that in the event the company's service was already terminated and the appeal process begun, the customer could have his service reinstated by payment, under protest, whatever amount is being disputed. The reason Southern Union put it that way is that they wanted to eliminate the use of a request for an appeals hearing as a method to have service reinstated when the customer has no intention of paying the bill. Discussion ensued on this point.

City Attorney Harris stated, "I think there will be a problem. The customer will come in and say I want to dispute the bill and the gas representative will ask if they want to dispute all or part of it and the customer is going to be the one to tell the company what is disputable. ...probably the company won't be able to do anything except grant the appeal on the basis

of the whole bill, unless we devise some clever scheme to avoid that."

Councilmember Mullen brought up the point of what to do if the customer asks for an extension of the appeal time. Mr. Laczko said that it probably should be stipulated that the company has the right to postpone a hearing if valid reasons for the postponement are furnished. "We're stuck with the rules as you write them and if there is nothing there regarding a postponement then it's a mild breach of what the rules say." Mr. Gardner said this was fine with him and will leave it to Southern Union's discretion to grant the extension for any length of time with a minimum of five days.

Mayor Pro Tem Goodman suggested that after the hearing tonight and all points are agreed upon, then they should leave it up to the City Attorney to make the final draft to vote on March 29, 1979.

MRS.E.L. COLLINS, 1122 Mason Avenue, asked when the city project is going to start to put people in houses. She said her home had been taken for the property. Mayor McClellan asked her to talk with Kathy Baumgartner of the City Manager's office to tell her what her concerns are.

LOVIE EVERETT, Montopolis, said the statement had been made that a customers money will be refunded if there is an error. She said this is wrong...Southern Union gives one credit. Mr. Laczko answered her that the company has made refunds and that any overpayment can receive a refund, however if there is a bill already due the amount is usually applied to that bill.

A man who did not identify himself said it would be helpful if there was a bill under dispute, to use an average bill for the home, pay it, and contest the remainder.

Mr. Harris explained, "We're talking about instituting an average bill where we're only talking about a situation where the service has already been cut off before the appeal is taken. If you take your appeal prior to the time the service is cut off you don't have to pay anything, is this right?" When he was told it was, then he said he just wanted to clarify that point.

Discussion ensued concerning the cut-off of service on Friday, and it was clarified to the satisfaction of all that no shut-offs would be done after noon on Friday.

Mr. Laczko referred to his letter and said the company has requested they be allowed to collect reasonable charges for certain services rendered and reasonable deposits. He pointed out that the City of Austin has recently raised its turn on fee for electric service to \$7.50. Mayor Pro Tem Goodman said he would object to a raise in the \$5.00 fee. Mr. Laczko said his recommendation to the company was that those two items be considered and "as well, the rules over which we had no disagreement concerning curtailment in quality of gas, which are both in ACORN'S proposal and Southern Union's proposal, be adopted and then the package be presented to the Council. The problem with those is that the Council, in order to implement those rules, would have to amend Southern Union Gas Company's franchise because those four specific items

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are addressed in the franchise and to make these rules workable and obviously this Council has the authority to set these rules, I would think it would make a much more workable situation if those four items were addressed, both in the rules of service and by appropriate franchise amendments. I have also furnished the Council draft ordinances which would accomplish amendments with a minimum of language change, merely referencing them to the rules of service over which the Council already has jurisdiction."

Mr. Harris commented, "My suggestion would be, unless they can change my mind, if they are going to do anything that is in the franchise agreement that it would merely only be effective if we amend the franchise agreement and I would suggest we do that before we put it in the service and regulations." Mr. Laczko explained that he is saying the franchise and these rules should tract each other. The rules, as they are presented to the Council by both ACORN and Southern Union have no dispute regarding quality of gas. There is a controversy regarding adequate deposit and there is a controversy because ACORN doesn't want any fees to be increased. He said Southern Union has requested that a fee be increased from \$5.00 to \$10.00 and that the deposit that they are requesting parallel the requirements currently in effect by the Texas Railroad Commission of 1/6th of an annual bill for residential customers.

Motion

Mayor Pro Tem Goodman moved that the Council direct the City Attorney to bring this back in ordinance form. The motion was seconded by Councilmember Cooke.

Mr. Harris told Council they need a decision on deferred payment and 25 days. Mr. Laczko said he thought he heard ACORN recommend that Southern Union's billing be adopted, and they are doing more research regarding the deferred payment.

Mr. Harris pointed out that the only thing that will be in the rules and regulations at this time will be the budget payment plan as recommended in Southern Union Gas's paragraph 22.1. There was agreement on this by Council. Mr. Harris also clarified that they will leave the due date as Southern Union Gas currently administers it.

Albert DeLaRosa, Assistant City Attorney, stated: "Officially for the record, I was talking to the attorney for ACORN. There are some minor differences in various positions and he was indicating to me that whenever there was a difference he wanted us to go along with the Southern Union Gas proposal. So, if there is some disagreement on that I'd like to know...the differences are very minor, e.g. words."

Mayor Pro Tem Goodman said it will be nice to be in total agreement when this gets back on March 29th like they are tonight. On the items that are pending they will deal with later on, but he felt all the differences are now ironed out. Mr. DeLaRosa stated, "My understanding from Steve is that we should go ahead with the Southern Union Gas proposal where there are any type of changes." Mr. Harris said the minor word changes will not have any effect on the substantive rules and regulations.

Mayor McClellan asked that the final draft of the ordinance be circulated as quickly as possible among interested parties before Council takes its final vote.

Roll Call on Motion

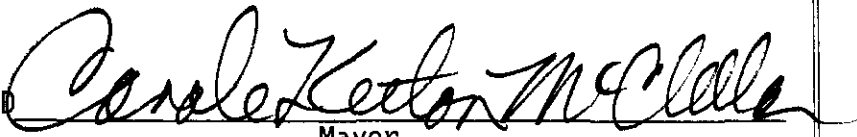
Roll Call on Mayor Pro Tem Goodman's motion that the Council direct the City Attorney to bring this back in ordinance form, showed the following vote:

Ayes: Mayor McClellan, Councilmember Cooke, Mayor Pro Tem Goodman,
Councilmembers Himmelblau, Mullen, Snell, Trevino
Noes: None

ADJOURNMENT

Council adjourned its meeting at 8:30 P.M.

APPROVED


Mayor

ATTEST:


City Clerk